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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SUGLO, JANET L

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/538,960	Applicant(s) CAUVIN ET AL.	
	Examiner JANET L. SUGLO	Art Unit 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/5/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The action is responsive to the Amendment filed on April 8, 2009. Claims 1 and 5-14 are pending. Claims 1, 10, 11, 13 and 14 have been amended. Claims 2-4 have been cancelled.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 1 and 5-14** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. With respect to **claim 1**, it is unclear what the phrase "a first type of results consisting of, for each slot of time span, of the number of times that a time interval between two consecutive of said occurrences falls within said time span; and a second type of results consisting of numbers of said occurrences per consecutive time slot of a predetermined period" means in lines 12-17 of claim 1. It is unclear what the relation exists between a "slot" and a "span." The slot of time span could be just a single occurrence of a span or it could be dividing the span into multiple sections. Further it is unclear whether the "number of times" includes only counting the time intervals between one set of two occurrences or whether there are multiple occurrences where the

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number of times occurs repeatedly between each consecutive occurrences. The claim also introduces an occurrence of a physical event in lines 2-3 and later introduces "a new occurrence" in lines 8-9 and "two consecutive of said occurrences" in line 14, which leads all interim references to "said occurrences" confusing as to which occurrences they are being referred.

5. With respect to **claim 10**, it is unclear what the phrase "a first type of results consisting of, for each slot of time span, of the number of times that a time interval between two consecutive of said occurrences falls within said time span; and a second type of results consisting of numbers of said occurrences per consecutive time slot of a predetermined period" means in lines 12-17 of claim 10. It is unclear what the relation exists between a "slot" and a "span." The slot of time span could be just a single occurrence of a span or it could be dividing the span into multiple sections. Further it is unclear whether the "number of times" includes only counting the time intervals between one set of two occurrences or whether there are multiple occurrences where the number of times occurs repeatedly between each consecutive occurrences. The claim also introduces an occurrence of a physical event in line 3 and later introduces "a new occurrence" in line 8 and "two consecutive of said occurrences" in line 14, which leads all interim references to "said occurrences" confusing as to which occurrences they are being referred.

6. With respect to **claim 11**, it is unclear what the phrase "a first type of results consisting of, for each slot of time span, of the number of times that a time interval between two consecutive of said occurrences falls within said time span; and a second

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type of results consisting of numbers of said occurrences per consecutive time slot of a predetermined period" means in lines 13-17 of claim 11. It is unclear what the relation exists between a "slot" and a "span." The slot of time span could be just a single occurrence of a span or it could be dividing the span into multiple sections. Further it is unclear whether the "number of times" includes only counting the time intervals between one set of two occurrences or whether there are multiple occurrences where the number of times occurs repeatedly between each consecutive occurrences. The claim also introduces "a new occurrence" in line 5 and later "said occurrences" where only one occurrence was mentioned previously.

7. With respect to **claim 13**, it is unclear what the phrase "a first type of results consisting of, for each slot of time span, of the number of times that a time interval between two consecutive of said occurrences falls within said time span; and a second type of results consisting of numbers of said occurrences per consecutive time slot of a predetermined period" means in lines 11-16 of claim 13. It is unclear what the relation exists between a "slot" and a "span." The slot of time span could be just a single occurrence of a span or it could be dividing the span into multiple sections. Further it is unclear whether the "number of times" includes only counting the time intervals between one set of two occurrences or whether there are multiple occurrences where the number of times occurs repeatedly between each consecutive occurrences. The claim also introduces "a new occurrence" in line 5 and later "said occurrences" where only one occurrence was mentioned previously.

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8. With respect to **claim 14**, it is unclear what the phrase "a first type of results consisting of, for each slot of time span, of the number of times that a time interval between two consecutive of said occurrences falls within said time span; and a second type of results consisting of numbers of said occurrences per consecutive time slot of a predetermined period" means in lines 11-16 of claim 14. It is unclear what the relation exists between a "slot" and a "span." The slot of time span could be just a single occurrence of a span or it could be dividing the span into multiple sections. Further it is unclear whether the "number of times" includes only counting the time intervals between one set of two occurrences or whether there are multiple occurrences where the number of times occurs repeatedly between each consecutive occurrences. The claim also introduces an occurrence of a physical event in lines 2-3 and later introduces "a new occurrence" in lines 8-9 and "two consecutive of said occurrences" in line 14, which leads all interim references to "said occurrences" confusing as to which occurrences they are being referred.

9. **Claims 5-9 and 12** are rejected under 35 U.S.C. 112, second paragraph, because they incorporate the lack of clarity present in parent claims 1 and 11.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. **Claims 1, 5, 6 and 9-14** are rejected under 35 U.S.C. 102(b) as being anticipated by Rainey et al. (US Patent 5,799,315) (hereinafter “Rainey”).

With respect to **claim 1**, Rainey teaches a device for temporal metering of events (e.g., Abstract), comprising:

means for associating a current time with each input of occurrence of a physical event (e.g., col 2, ln 1-9),

means for summary processing of said occurrences and of the current times so as to produce condensed results (e.g., col 8, ln 37-48);

and means for recording in at least one metering file of information containing said condensed results in predefined data structures of prefixed sizes so as to make it possible to keep the size of said file constant even when information regarding a new occurrence of a physical event is recorded, said information authorizing an at least partial temporal reconstruction of said occurrences (e.g., col 6, ln 1-31; col 8, ln 14-22),

wherein said condensed results comprise:

a first type of results consisting, for each slot of time span, of the number of times that a time interval between two consecutive of said occurrences falls within said time span (e.g., col 9, ln 35-40); and

a second type of results consisting of numbers of said occurrences per consecutive time slot of a predetermined period (e.g., col 9, ln 23-29).

With respect to **claim 5**, Rainey teaches the slots of time spans of the first type of results have amplitudes increasing not strictly with the time spans durations (e.g., col 9, ln 23-40).

With respect to **claim 6**, Rainey teaches the physical events comprise calls to a piece of software situated on a source machine by appliances (e.g., pen) able to communicate with the machine (e.g., notebook computer) (e.g., col 2, ln 1-14).

With respect to **claim 9**, Rainey teaches the physical events comprise uses of computer functionalities available on a machine (e.g., note taking) and liable to undergo malfunctions on account of technical problems (e.g., col 2, ln 1-14).

With respect to **claim 10**, Rainey teaches a method of temporal metering of events comprising the steps of (e.g., Abstract);

associating a current time with each input of occurrence of a physical event (e.g., col 2, ln 1-9),

processing said occurrences and said current times so as to produce condensed results (e.g., col 8, ln 37-48),

recording in at least one metering file, information containing the condensed results, in predefined data structures of prefixed sizes, so as to make it possible to keep the size of the file constant even when information regarding a new occurrence of a

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physical event is recorded, the information authorizing an at least partial temporal reconstruction of said occurrences (e.g., col 6, ln 1-31; col 8, ln 14-22),

wherein said condensed results comprise:

a first type of results consisting, for each slot of time span, of the number of times that a time interval between two consecutive of said occurrences falls within said time span (e.g., col 9, ln 35-40); and

a second type of results consisting of numbers of said occurrences per consecutive time slot of a predetermined period (e.g., col 9, ln 23-29).

With respect to **claim 11**, Rainey teaches a device for temporal analysis of events on the basis of at least one metering file including information containing condensed results in predefined data structures of prefixed sizes, the at least one metering file realizing a constant file size regardless of the recording of additional information of a new occurrence of a physical event (e.g., col 6, ln 1-31; col 8, ln 14-22),, the device comprising:

a module and method for extracting the results recorded in the file (e.g., col 8, ln 37-40),

a module for verifying consistencies of results respectively of the types of results (e.g., col 8, ln 37-48, col 8, ln 54-65),

and a module for producing a warning signal intended for a user in the case of inconsistency of the results (e.g., col 8, ln 54-65).

wherein said condensed results comprise:

a first type of results consisting, for each slot of time span, of the number of times that a time interval between two consecutive of said occurrences falls within said time span (e.g., col 9, ln 35-40); and

a second type of results consisting of numbers of said occurrences per consecutive time slot of a predetermined period (e.g., col 9, ln 23-29).

With respect to **claim 12**, Rainey teaches a module for inputting requests of a user, the requests pertaining to temporal cues relating to the occurrences of the events, a module for combined processing of the types of results, which module is designed to produce said temporal cues as a function of the information recorded (e.g., col 4, ln 10-15).

With respect to **claim 13**, Rainey teaches a method of temporal analysis of events on the basis of at least one metering file, information containing the condensed results in predefined data structures of prefixed sizes, the at least one metering file realizing a constant file size regardless of the recording of additional information of a new occurrence of a physical event, the method comprising (e.g., col 6, ln 1-31; col 8, ln 14-22):

extracting results recorded in the at least one metering file (e.g., col 8, ln 37-40),
verifying the consistencies of the results respectively for different types of results (e.g., col 8, ln 37-48, col 8, ln 54-65),

and producing a warning signal intended for a user in the case of inconsistency of the results (e.g., col 8, ln 54-65).

wherein said condensed results comprise:

a first type of results consisting, for each slot of time span, of the number of times that a time interval between two consecutive of said occurrences falls within said time span (e.g., col 9, ln 35-40); and

a second type of results consisting of numbers of said occurrences per consecutive time slot of a predetermined period (e.g., col 9, ln 23-29).

With respect to **claim 14**, Rainey teaches a computer program product comprising program code instructions which when the program is executed on a computer causing the steps of (e.g., Abstract);

associating a current time with each input of occurrence of a physical event (e.g., col 2, ln 1-9),

processing said occurrences and said current times so as to produce condensed results (e.g., col 8, ln 37-48),

recording in at least one metering file, information containing the condensed results, in predefined data structures of prefixed sizes, so as to make it possible to keep the size of the file constant even when information regarding a new occurrence of a physical event is recorded, the information authorizing an at least partial temporal reconstruction of the occurrences (e.g., col 6, ln 1-31; col 8, ln 14-22),

wherein said condensed results comprise:

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a first type of results consisting, for each slot of time span, of the number of times that a time interval between two consecutive of said occurrences falls within said time span (e.g., col 9, ln 35-40); and

a second type of results consisting of numbers of said occurrences per consecutive time slot of a predetermined period (e.g., col 9, ln 23-29).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Rainey in view of Longman et al. (US PGPub 2002/0064260) (hereinafter "Longman"). Rainey teaches all the limitations of parent claim 1, but does not teach that the physical events include telephone calls. Longman teaches recording the time of telephone calls (Longman: [0032]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Rainey to include the telephone calls of Longman because the occurrence data would allow the skilled artisan transmit the data remotely for more accurate and detailed analysis.

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14. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Rainey in view of Klein (US Patent 5,541,845). Rainey teaches all the limitations of parent claim 1, but does not teach that the physical events comprise predefined maneuvers in a motor vehicle. Klein teaches monitoring the movement of a vehicle along a planned route (Klein: col 3, ln 16-47). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Rainey to include the maneuvers in a motor vehicle as done by Klein because this will identify a problem and provide a solution by allowing the schedule and/or route to be modified (Klein: col 1, ln 19-24).

Response to Arguments

15. Applicant's arguments filed April 8, 2009 have been fully considered but they are not persuasive.

16. Applicant argues that replacing "time slot" with "time span" overcomes the previous 35 U.S.C. 112, second paragraph, rejection of all independent claims; however Applicant's arguments are not well taken. As described above, It is unclear what the relation exists between a "slot" and a "span." The slot of time span could be just a single occurrence of a span or it could be dividing the span into multiple sections. Further it is unclear whether the "number of times" includes only counting the time intervals between one set of two occurrences or whether there are multiple occurrences where the number of times occurs repeatedly between each consecutive occurrences. The claim also introduces an occurrence of a physical event and later introduces "a new

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occurrence" and "two consecutive of said occurrences", which leads all interim references to "said occurrences" confusing as to which occurrences they are being referred. Instead of changing terms, perhaps more detail needs to be pulled from the specification to further clarify the claim limitations.

Applicant argues that Rainey does not teach keeping the size of the file constant even when information regarding a new occurrence of a physical event is recorded; however, Applicant's arguments are not well taken. Rainey teaches that when a data file is modified the new data file has a data structure including a linked set of segments which correspond to the original segments on a one-to-one basis (Rainey: col 6, ln 25-31; Figure 8). Applicant points to Figure 6 and column 5, lines 1-7 of Rainey wherein the amount of file space used is minimized, however this is only "when one *wants* to minimize the amount of file space" [*emphasis added*]. Rainey teaches many different embodiments. In those instances where new segments are *not* needed and yet new occurrences of a physical event are recorded, the file is modified while keeping the same file size as shown in Figure 8 and Rainey thus meets the claim limitations of claims 1, 5, 6 and 9-14.

17.

Applicant argues with respect to claims 1, 10, 13 and 14 that Rainey does not teach "a first type of results consisting, for each slot of time span, of the number of times that a time interval between two consecutive of said occurrences falls within said time span; and a second type of results consisting of numbers of said occurrences per consecutive time slot of a predetermined period" however, Applicant's arguments are

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not well taken. In the examiner's interpretation, the limitations merely state that there are varying time slots between physical occurrences. Rainey describes in column 9, lines 35-40 that an event tag may be stored when no pen contact has been made and even if no modification has been made. Rainey further teaches in column 9, lines 28-34 that all actions made within a certain time interval may be identified. Rainey's invention includes recording physical instances over time and recording when the instances occurred.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JANET L. SUGLO whose telephone number is (571)272-8584. The examiner can normally be reached on M-F from 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos-Feliciano can be reached on 571-272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JANET L SUGLO/
Examiner, Art Unit 2857

/Eliseo Ramos-Feliciano/
Supervisory Patent Examiner, Art Unit 2857